

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>JAKWARIS ROBISON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 21-27 Erie</b>
	)	
<b>WARDEN KEVIN SUTTER, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM ORDER**

This *pro se* prisoner civil action was received by the Clerk of Court on January 11, 2021 and referred to United States Magistrate Judge Richard A. Lanzillo for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and the Local Rules for Magistrate Judges. ECF No. 1. Plaintiff, a former inmate at the Erie County Prison (“ECP”), has brought claims under 42 U.S.C. §1983 against Warden Kevin Sutter and seven nurses<sup>1</sup> who were part of the prison medical staff during Plaintiff’s confinement at ECP.

The operative pleading in this case is Plaintiff’s Second Amended Complaint (“SAC”). ECF No. 52. Therein, Plaintiff avers that Defendants violated his Eighth Amendment rights by allegedly failing to provide necessary dental care, resulting in the extraction of his tooth. *Id.*

Warden Sutter filed a motion to dismiss the SAC on February 1, 2022, arguing that Plaintiff had failed to allege his personal involvement in any alleged wrongdoing, failed to plead any basis for municipal liability, and failed to establish any entitlement to declaratory or injunctive relief. *See* ECF Nos. 53, 54. Several days later, the Defendant nurses filed their own

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<sup>1</sup> Aside from Warden Kevin Sutter, the named Defendants include prison nurses Heidi Karash, Denise Long, Teri Masi, Emily Trevelline, Autumn Brown, Renee Fox, and Cindy Leana (collectively hereafter, “Defendants”).

motion to dismiss the SAC. *See* ECF No. 56. The nurse Defendants argued that the SAC, like Plaintiff's prior pleading, failed to allege a plausible Eighth Amendment violation and failed to state any grounds for equitable relief or punitive damages. ECF No. 57.

Plaintiff's response to the pending motions was due by March 7, 2022. ECF Nos. 55, 58. When no response was received, Judge Lanzillo ordered Plaintiff to show cause for his delinquency or, alternatively, file his brief in opposition to the motions, by April 18, 2022. Plaintiff failed to do either one.

Consequently, on June 6, 2022, Judge Lanzillo filed a report and recommendation ("R&R") in which, after weighing the factors outlined in *Poulis v. State Farm Fire and Casualty Company*, 747 F.2d 863 (3d Cir. 1984), he concluded that the within civil action should be dismissed because of Plaintiff's failure to prosecute his claims. Judge Lanzillo further opined that the pending motions to dismiss should be denied as moot.

Objections to the R&R were due to be filed on or before June 23, 2022. To date, no objections have been filed.

Accordingly, after *de novo* review of the Second Amended Complaint, the Magistrate Judge's Report and Recommendation, Defendants' pending motions, and all other relevant filings and developments in this case, the following Order is entered:

NOW, this 8<sup>th</sup> day of July, 2022,

IT IS ORDERED that Plaintiff's Second Amended Complaint shall be, and hereby is, DISMISSED with prejudice, based upon Plaintiff's failure to prosecute his claims.

IT IS FURTHER ORDERED that the Defendants' motions to dismiss the Second Amended Complaint, ECF Nos. [53] and [56], are DISMISSED as moot.

Finally, IT IS ORDERED that the Report and Recommendation of Magistrate Judge Lanzillo, dated June 6, 2022, ECF No. [61], shall be, and hereby is adopted as the opinion of this Court.

There being no further pending matters before the Court, the Clerk is directed to mark this civil action "CLOSED."

A handwritten signature in cursive script, reading "Susan Paradise Baxter". The signature is written in black ink and is positioned above the printed name and title of the signatory.

SUSAN PARADISE BAXTER  
United States District Judge

cm: Jakwaris Robison  
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SCI Albion  
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Albion, PA 16475-0001  
(via U.S. Mail)

The Honorable Richard A. Lanzillo (via CM/ECF)